

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: JESUS MARTINEZ) OEIG Case #16-00760

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General, and to Jesus Martinez at his last known address.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. ALLEGATIONS

On April 18, 2016, the Office of Executive Inspector General (OEIG) received an anonymous complaint alleging that Capital Development Board (CDB) Administrator of Fair Employment Practices Jesus Martinez¹ was conducting personal business while on State time, including holding meetings and conducting business as a partner in Colectivo Independiente Campesino USA, LLC (CIC) and operating as a commodities broker.²

¹ Mr. Martinez also uses the first name “Jesse.”

² The complaint also alleged that Mr. Martinez maintained close relationships with and invested money for convicted felons. In the course of the OEIG investigation, Mr. Martinez denied investing money for convicted felons, and the OEIG did not investigate the matter further.

II. BACKGROUND

Jesus Martinez is the Administrator of Fair Employment Practices at CDB, and works out of CDB's Chicago office at the James R. Thompson Center (JRTC). Mr. Martinez has served in his current role since February of 2008.

The CDB is the State government's construction management agency, which primarily oversees the construction and rehabilitation of State facilities.³ As the Administrator of Fair Employment Practices, Mr. Martinez works with minority, veteran, and female-owned construction firms to encourage and assist them in bidding and participating in State contracts.

III. INVESTIGATION

In the course of its investigation, the OEIG reviewed documents relating to CIC and two other business ventures with which Mr. Martinez is associated, as well as Mr. Martinez's calendars and timesheets. Finally, OEIG investigators interviewed Mr. Martinez and his supervisor at the time, CDB Executive Director Jodi Golden.⁴

A. Mr. Martinez's Other Business Ventures

Investigators reviewed Mr. Martinez's relationship with CIC, the entity named in the anonymous complaint. In the course of this investigation, investigators also identified two other entities with ties to Mr. Martinez: Maximus Worldwide Inc. and MTZ Consulting Inc.

1. Colectivo Independiente Campesino USA, LLC

The complaint alleged that Mr. Martinez performed work for CIC while on State time. However, internet searches completed by investigators did not establish any connection between Mr. Martinez and CIC.⁵ CDB records for Mr. Martinez do not include an Application for Approval of Outside Activities/Employment for CIC.⁶ Investigators also reviewed Mr. Martinez's Statements of Economic Interests for the years 2014, 2015, and 2016, finding that Mr. Martinez did not list CIC on his Statement of Economic Interests forms.

³ See <https://www.illinois.gov/cdb/about/Pages/default.aspx> (last visited May 19, 2017).

⁴ During the investigation, the OEIG was informed that Ms. Golden left CDB on June 7, 2017.

⁵ CIC does have a LinkedIn page, where it is identified as CIC-Global. See <https://www.linkedin.com/company/colectivo-independiente-campesino-usa> (last visited June 19, 2017). According to this page, CIC has offices in Wheaton, Illinois and San Pedro, Nuevo Leon, Mexico, and it specializes in biogas, organic fertilizer, renewable energy, and rural economic development. *Id.* The site states that CIC has created "NopalPower," a trademarked biofuel and organic fertilizer made from prickly pear cactus biomass. *Id.* CIC also has a Facebook page that identifies its location as Durango City, Mexico. See <https://www.facebook.com/colectivoindependientecampesino/> (last visited June 19, 2017).

⁶ CDB policy requires disclosure of secondary employment if it could present a real or perceived conflict of interest. See Capital Development Board Personnel Policies and Procedures Section 11.7(I) (stating, "[a]ll employees must discuss offers of outside employment that could present a real or perceived conflict of interest with their immediate supervisor. . . Employees must fill out the appropriate paperwork for any outside employment, whether paid or unpaid that could present a real or perceived conflict of interest.").

2. Maximus Worldwide Inc.

A review of Mr. Martinez's personnel file showed that on July 17, 2014, Mr. Martinez submitted an Application for Approval of Outside Activities/Employment to CDB. On his application, Mr. Martinez wrote that the name of the prospective employer was Maximus Worldwide Inc. (Maximus), based in Reno, Nevada. Mr. Martinez wrote that his start date was March 2014, that he did not have work hours, and that he would hold the title of Investor. In the space provided for Mr. Martinez to list his duties, he wrote "[i]nvestment fund – private on-line trading, CME⁷ group member." Mr. Martinez wrote that he had partial ownership of Maximus and that he received a percentage of its profits. Mr. Martinez's request was approved by CDB.

Mr. Martinez listed Maximus on his Statement of Economic Interests forms submitted in 2014, 2015, and 2016, as an entity doing business in Illinois, in which his ownership interest exceeded \$5,000 or from which he derived dividends exceeding \$1,200. On his 2015 and 2016 forms, Mr. Martinez also listed Maximus as an entity from which he received income exceeding \$5,000 for professional services.

3. MTZ Consulting Inc.

Investigators reviewed three months' worth of Mr. Martinez's State e-mails in order to determine if he was using his State e-mail for his secondary employment. Although this review generally did not reveal evidence that Mr. Martinez used his State email account for his secondary employment, in the course of this review, investigators found e-mails where Mr. Martinez e-mailed his State account from his personal account with attachments of various tax documents relating to another entity: MTZ Consulting Inc. (MTZ).⁸ Included in these attachments was a copy of a 2015 Form 1120 U.S. Corporation Income Tax Return for MTZ, which was signed by Mr. Martinez as President on March 14, 2016. The form reported that in 2015 MTZ made \$117,108 in total income and \$16,259 in taxable income. Other tax documents attached to Mr. Martinez's work e-mail show that this \$117,108 (the entirety of MTZ's profit for 2015) was paid to MTZ by Maximus.

A corporation file detail report, available at the Secretary of State's website,⁹ shows that MTZ is a Domestic BCA Corporation in the State of Illinois. MTZ was incorporated on December 9, 2014, and Jesus Martinez is listed as MTZ's agent of record. MTZ's listed address is Mr. Martinez's residence.

⁷ CME stands for Chicago Mercantile Exchange, a derivatives marketplace. See <http://www.cmegroup.com/company/> (last visited May 31, 2017).

⁸ CDB policy provides that its network and Internet system should be used for State business and *de minimis* personal uses that do not cost the State. See Capital Development Board Personnel Policies and Procedures Section 13(M)(3) (outlining that each user is "to access only the information which is required to perform his or her job, and for reasonable personal use."). See also *id.* at Section 10.1(I) (stating that "[u]se or consumption of State property or resources for personal or private purposes" are grounds for disciplinary action). Based on the information received by the OEIG, there is insufficient evidence to conclude that Mr. Martinez's use of his State e-mail to receive personal tax documents was unreasonable.

⁹ See http://www.cyberdriveillinois.com/departments/business_services/corp.html (last visited May 19, 2017).

Mr. Martinez did not submit an Application for Approval of Outside Activities/Employment to CDB for MTZ, nor did he list MTZ on his Statements of Economic Interests.

B. Review of Jesus Martinez's Timekeeping

Investigators reviewed three months of Mr. Martinez's eTime records, which spanned from August 1, 2016 through November 6, 2016. Investigators also reviewed Mr. Martinez's Outlook calendar entries from February 1, 2016 through April 30, 2016, in order to analyze how Mr. Martinez logged his time, meetings, and outside events. A review of the Outlook calendar showed Mr. Martinez logged some meetings in his Outlook calendar, however most were interagency CDB meetings taking place during regular working hours. A review of Mr. Martinez's eTime records showed that in 60 days of working, Mr. Martinez altered his time from his assigned schedule of 8:30 a.m. to 5:00 p.m. on 15 days, or 25 percent of the time.¹⁰ Mr. Martinez put no comments on his eTime entries regarding the altering of his schedule, and then-Executive Director Jodi Golden approved each week of Mr. Martinez's time records.

Mr. Martinez's CDB personnel file contained an October 2009 e-mail from a [redacted] to Mr. Martinez stating that Mr. Martinez should "be cognizant of the time in which you are scheduled to report to work and leave from work."

C. Interview of Jesus Martinez

Investigators interviewed CDB Administrator of Fair Employment Practices Jesus Martinez on November 17, 2016. Mr. Martinez said he reported to CDB Executive Director Jodi Golden. Mr. Martinez stated that his official work schedule at CDB is Monday through Friday, 8:30 a.m. to 5:00 p.m., for a total of 40 hours per week.

1. Mr. Martinez's Other Business Ventures

In order to discover whether Mr. Martinez abused State time by working for his other ventures, investigators asked Mr. Martinez about the three entities allegedly tied to him: CIC, Maximus, and MTZ. Mr. Martinez explained to investigators that he invests in CIC, which works with the Mexican government to subsidize the cost of fertilizer in order to incentivize Mexican farmers to continue working their land. Mr. Martinez stated that he does not and has never worked for CIC, and is only an investment partner. However, Mr. Martinez stated he goes to Mexico and meets with politicians to help network with farmers. Mr. Martinez said CIC does not conduct business in the United States.

Mr. Martinez explained that Maximus is an investment company he partially owns with a friend in Las Vegas. Mr. Martinez stated that he is a commodities broker, and he is a member of

¹⁰ On nine of those days Mr. Martinez recorded that he arrived at work after 8:30 a.m.; however, Mr. Martinez recorded that he still worked seven-and-one-half hours each of those days, staying after 5:00 p.m. each time. On the other six days Mr. Martinez recorded working overtime (on three days, working overtime after 5:00 p.m.; on two days, working overtime before 8:30 a.m. and after 5:00 p.m.; and on one day working overtime before 8:30 a.m. only).

the Chicago Mercantile Exchange. Mr. Martinez stated that Maximus is an ongoing and open account and that his investments focus on oil commodities.

Mr. Martinez explained that MTZ is a corporation that he started. Mr. Martinez stated that MTZ is not related to Maximus and that he is the only employee at MTZ.

Investigators also asked Mr. Martinez whether his involvement with CIC, Maximus, and MTZ interfered with his working hours at CDB. Mr. Martinez said he is not involved with the operations of CIC and that he does not hold meetings or conduct business at the JRTC for CIC. When he explained MTZ to investigators, Mr. Martinez stated that it does not conduct business in Illinois and that he does not actually do any consulting with MTZ.

However, Mr. Martinez said he watches his Maximus investments throughout the day, and stated he sometimes brings a personal laptop to work in order to monitor the stock market throughout the work day. Mr. Martinez stated that he also monitors the stock market throughout the work day on his personal cellular phone. When asked if he works for Maximus during State time, Mr. Martinez said that he “watch[ed] oil” during State time, but he does not trade during the day. Mr. Martinez said that Ms. Golden knows that he watches his investments throughout the work day.

2. Mr. Martinez’s Timekeeping and Other Use of Time

In addition to investigating whether Mr. Martinez abused State time vis-à-vis conducting secondary employment while on State time, the OEIG also examined Mr. Martinez’s timekeeping practices and other use of time. Mr. Martinez stated that although he does have a CDB office at the JRTC, his job is “not measured by sitting in [my] office.” Mr. Martinez said he travels for his job, adding that there is no regular or defined amount of time that he spends traveling. Mr. Martinez said that he does a “lot of after-hours work,” and spends a lot of time talking to firms and maintaining their interests in bidding on State construction contracts.

Mr. Martinez said he is “relaxed on hours ‘cause I’m flexible with my time.” When asked if all of his appointments and meetings were maintained on a calendar, Mr. Martinez responded that his Microsoft Outlook (Outlook) calendar is not always updated; however, Mr. Martinez said he is always available via his State iPhone or personal cellular phone. Mr. Martinez stated that he recently went to an evening gala for networking purposes, but did not record the work time that he spent at the gala on his Outlook calendar because he is “flexible with time.”

Mr. Martinez also stated that his timesheet says 8:30 a.m. to 5:00 p.m. regardless of the actual schedule he worked. Mr. Martinez cited an example, where on November 16, 2016 (the day before his OEIG interview), he went to dinner and spent time promoting CDB construction contracts to prospective contractors, and said that he does not record functions such as these on his timesheets. Mr. Martinez said he is aware of a notice in eTime that states he should only submit the timesheet if the time reported is accurate.¹¹

¹¹ Upon submitting a timesheet in eTime, an employee is asked to confirm the following statement: “[s]ubmission of this Weekly Time Report for approval confirms that the named employee has reviewed the entries and determined that all information contained herein is complete and accurate.”

Mr. Martinez also stated that he considers himself “on the clock” when he is on his cellular phone or checking his e-mails regarding CDB. Mr. Martinez stated that even though he is scheduled to be in his office by 8:30 a.m., he usually physically arrives at work between 9:00 and 9:30 a.m. Mr. Martinez opined that because he is on his cellular phone and checking e-mails prior to 9:00 to 9:30 a.m., he is already working and on the clock, telling investigators that the first thing he does in the morning is answer e-mails.

Mr. Martinez said that his scheduled end time is 5:00 p.m., but Ms. Golden permits him to leave the office prior to his scheduled end time as long as he is reachable. Mr. Martinez provided, as an example, that he took his children to play football before his scheduled end time, and further stated that as long as he is on his cellular phone or checking e-mails, he is classified as working. Mr. Martinez said, “I’m not doing anything that [Ms. Golden] wouldn’t like,” and “I understand eTime has to be accurate, but I have good rapport with the Director.”

Nevertheless, Mr. Martinez said that Ms. Golden has instructed him to make sure his calendar reflects his work, and has asked him to record his time accurately in eTime. Mr. Martinez said that Ms. Golden is aware that his timesheets do not accurately reflect his actual work schedule, and that Ms. Golden has told him “to work on this.” Mr. Martinez said he understands that in general, State employees need to accurately reflect their time worked, but that his scope of work is different. Mr. Martinez stated that because he is flexible with his personal time, “the State should be flexible with me.”

D. Interview of Jodi Golden

Investigators interviewed CDB Executive Director Jodi Golden on December 14, 2016. Ms. Golden stated she began working at CDB as the Chief of Staff in February 2015, and was named Executive Director in June 2015. Ms. Golden explained that as the Executive Director, she manages all operations of CDB. Ms. Golden said her primary office is in Springfield.

Ms. Golden stated that CDB Deputy Director Michael Wilson’s office is in Chicago and that Mr. Martinez may report to Mr. Wilson on paper, but in practice Mr. Martinez reports to her.¹² Ms. Golden said that she signs off on all of Mr. Martinez’s timesheets in the eTime system.

1. Mr. Martinez’s Outside Business Ventures

Ms. Golden stated that she has never heard of CIC and that she does not know if Mr. Martinez is an investment partner with CIC. However, Ms. Golden stated that on one occasion, after Mr. Martinez requested time off to go to Mexico for business regarding fertilizers, she verbally counseled him and instructed him to properly disclose his outside business ventures. Ms. Golden said Mr. Martinez has used benefit time to take multiple trips to Mexico for his fertilizer business. Ms. Golden said she had never heard of Maximus, that she is not aware that Mr. Martinez

¹² Ms. Golden also stated that Mr. Martinez notifies her and not Mr. Wilson of work-related events that take place outside of regularly-scheduled work hours. Ms. Golden stated she did not know what information Mr. Martinez shares with Mr. Wilson.

has secondary employment with Maximus, and that she is not aware that Mr. Martinez is a commodities broker. When asked, Ms. Golden said she is not familiar with MTZ.

Ms. Golden said she was also unaware that Mr. Martinez sometimes brings a personal laptop to work and also uses his personal cellular phone to monitor his Maximus investments via the stock market during the day. Ms. Golden denied informing Mr. Martinez that it was permissible to monitor the stock market on his personal laptop or personal cellular phone on compensated State time. Ms. Golden said, "I have a problem if it took away from his job duties," and also stated, "[h]e should only be doing this on break or lunch time."

2. Oversight of Mr. Martinez and His Time

Ms. Golden stated that Mr. Martinez is scheduled to work 8:30 a.m. to 5:00 p.m.; however, she clarified that because Mr. Martinez does outreach and meets with vendors, his actual work schedule can vary. When asked if she knows how often Mr. Martinez works outside of his scheduled work hours, Ms. Golden said she did not know about every meeting, but that Mr. Martinez often meets with vendors outside of his scheduled work hours. Ms. Golden also estimated that Mr. Martinez spends 50 percent of his time meeting with people outside of the JRTC.

Ms. Golden stated that Mr. Martinez usually informs her of these meetings because Ms. Golden has to approve Mr. Martinez's attendance at most of the events.¹³ Ms. Golden stated that while she has access to Mr. Martinez's Outlook calendar, he does not record every meeting on his Outlook calendar.

Ms. Golden stated that Mr. Martinez is allowed to adjust his schedule, explaining that he may start work late when he is attending an after-hours event, so long as he makes up the time later in the day. Ms. Golden stated that she told Mr. Martinez that in these instances he could arrive at work after his scheduled start time as long he informs her verbally and as long as it is reflected on his timesheets. Ms. Golden also told investigators that she sent Mr. Martinez e-mails instructing him to accurately reflect his work times in eTime.¹⁴ Ms. Golden stated that she has "kicked back" timesheets that did not reflect when Mr. Martinez went to events outside of his scheduled work hours, adding that Mr. Martinez corrected the timesheets that she "kicked back." Ms. Golden said she expects Mr. Martinez to work 8:30 a.m. to 5:00 p.m. unless he adjusts his schedule as noted above, adding that she expects Mr. Martinez to work at least seven-and-one-half hours per day. Ms. Golden also stated that Mr. Martinez usually works more than seven-and-one-half hours in a day if he attends an after-hours event.

Ms. Golden told investigators that she does not consider Mr. Martinez to be working when he is simply available by cellular phone or e-mail.¹⁵ Ms. Golden stated that he should not be

¹³ Ms. Golden said Mr. Martinez generally forwards her a copy of the invitations and asks for permission to attend.

¹⁴ Following Ms. Golden's interview, the OEIG requested these e-mails. Ms. Golden responded that upon reviewing her files she recalled that she gave general instructions regarding accurate timekeeping at staff meetings as opposed to specifically counseling Mr. Martinez on the subject via e-mail.

¹⁵ Ms. Golden said that CDB does not have a work from home policy, but that a special work request could be granted. However, Ms. Golden stated that Mr. Martinez cannot work from home and that he has never requested to work from home.

recording when he is available by cellular phone or e-mail as working in eTime. Ms. Golden stated that Mr. Martinez being on a work-related telephone call outside of his scheduled work hours would not be classified as time working or “being on the clock,” stipulating that Mr. Martinez would only be classified as working outside of his scheduled work hours if he is at an event representing CDB. Ms. Golden also said she is “not okay” with Mr. Martinez leaving work before his scheduled departure time to attend his children’s football games despite his availability via cellular phone and e-mail, telling investigators that she never gave him permission to do so.

Ms. Golden explained that because she primarily works in Springfield, and because Mr. Martinez is in Chicago, she has to trust that Mr. Martinez works 37-and-one-half hours per week.

IV. ANALYSIS

A. Jesus Martinez’s Outside Employment

Although Mr. Martinez did submit an Application for Approval of Outside Activities/Employment for his work with Maximus, he did not disclose any work for CIC or MTZ to CDB. Mr. Martinez denied working for CIC and stated that he is only an investment partner. CDB policy only requires disclosure of secondary employment which could present a conflict of interest.¹⁶ Mr. Martinez stated that MTZ does not do business in Illinois and that he does not do any consulting with MTZ. Because the OEIG did not find sufficient evidence at this time to conclude that Mr. Martinez’s work with MTZ or CIC, as he described it, presents a real or perceived conflict of interest, the OEIG makes no finding that Mr. Martinez should have disclosed either venture to CDB.

The OEIG also did not find sufficient evidence to conclude at this time that Mr. Martinez should have disclosed his interests in CIC and MTZ on his Statements of Economic Interests. The Governmental Ethics Act requires filers to disclose any entity doing business in Illinois in which his or her ownership interest exceeded \$5,000 or from which he or she derived dividends exceeding \$1,200 in the previous calendar year, organizations where the filer was an officer or proprietor and income in excess of \$1,200 was derived in the previous calendar year, and any capital gains earned in the previous calendar year of \$5,000 or more.¹⁷ The investigation did not uncover evidence that CIC conducts business in Illinois, Mr. Martinez denied that CIC conducts business in Illinois, and evidence of Mr. Martinez’s income from his investments with that entity was not obtained. With respect to MTZ, although it is a registered Domestic BCA Corporation in the State of Illinois, Mr. Martinez denied that MTZ does business in Illinois; it is also unclear what the income MTZ reported on its 2015 tax form represented. Therefore, the OEIG makes no finding that Mr. Martinez should have disclosed CIC or MTZ on his Statements of Economic Interests.

CDB policy states, “[o]utside employment will be undertaken only during non-working hours, vacation or personal business leave time,”¹⁸ and further provides that outside employment

¹⁶ See Capital Development Board Personnel Policies and Procedures Section 11.7(I).

¹⁷ See 5 ILCS 420/4A-102(a)(1); 5 ILCS 420-4A-102(a)(3); 5 ILCS 420/4A-102(b)(1).

¹⁸ Capital Development Board Personnel Policies and Procedures Section 11.7(F). CDB defines employment as “holding a conventional job, providing services, dealing in materials, merchandise, property or real estate, or any similar activity for which the employee receives remuneration, whether in the form of cash, goods, opportunity,

“should not conflict with regular work hours, nor impair the efficiency of or disrupt the employee’s . . . work.”¹⁹ Mr. Martinez informed investigators that he watches his investments with Maximus throughout the workday,²⁰ using both his personal laptop and personal cellular phone to monitor the stock market.²¹ When asked directly if he works for Maximus during State time, Mr. Martinez admitted to “watching oil” during State time. The OEIG does not condone such activity during State time, and recommends that the CDB take action to ensure that this does not continue. However, there is insufficient evidence, at this time, to prove that these actions fall under CDB’s definition of undertaking outside employment, and/or that the watching of these investments impaired Mr. Martinez’s work performance. Therefore, the allegation that Mr. Martinez violated CDB policy by engaging in outside employment during work hours is **UNFOUNDED**.

B. Jesus Martinez Failed to Keep Accurate Time Records

According to CDB policy, “[t]he normal work hours for CDB employees are from 8:30 a.m. to 5:00 p.m., Monday through Friday. Any deviation from established work hours must have management’s prior approval.”²² Employees are expected to arrive at work at their designated starting time, leave at their designated quitting time, and remain at their worksite throughout their shift, unless on an authorized break.²³ “Tardiness, taking extended rest periods or lunch breaks, and leaving work before the end of the work shift without authorization may be cause for disciplinary action up to and including discharge.”²⁴ Finally, CDB policy provides that “[k]nowingly and willfully failing to accurately and truthfully account for hours worked” is grounds for disciplinary action.²⁵

Mr. Martinez’s supervisor, Ms. Golden, explained to investigators that Mr. Martinez spends a “considerable amount of time doing outreach,” including events after CDB’s regular working hours, and said that she has informally given Mr. Martinez permission to adjust his time and report to work later on days when he has an event to attend on behalf of CDB in the evening. However, Ms. Golden stated that when Mr. Martinez is not adjusting his schedule this way she expects him to work 8:30 a.m. to 5:00 p.m., and that she did not consider Mr. Martinez to be working when he is simply available by cellular phone or e-mail. Although Ms. Golden stated that she has not required Mr. Martinez to record his outside meetings on his Outlook calendar, she does expect him to accurately record his time on his timesheets, and she stated that she has “kicked back” inaccurate timesheets to Mr. Martinez for him to correct.

services or any other form of direct or indirect financial benefit . . . Self-employment is also included.” *Id.* at Section 11.7(A).

¹⁹ Capital Development Board Personnel Policies and Procedures Section 11.7(B).

²⁰ Although Mr. Martinez told investigators that Ms. Golden had knowledge of this and approved of the activity, Ms. Golden denied it in her interview.

²¹ Mr. Martinez’s monitoring of his investments on his personal electronic devices throughout the workday may also violate CDB’s personal electronics policy if it interfered with his job duties. *See* Capital Development Board Personnel Policies and Procedures Section 13(L). However, the OEIG did not find sufficient evidence regarding the impact this activity had on his work duties to conclude that this specific policy was violated.

²² Capital Development Board Personnel Policies and Procedures Section 7.1.

²³ Capital Development Board Personnel Policies and Procedures Section 7.7.

²⁴ *Id.*

²⁵ Capital Development Board Personnel Policies and Procedures Section 10.1(W).

Mr. Martinez admitted that he does not record his time accurately even after Ms. Golden had instructed him to properly account for his daily schedule in eTime. This was confirmed by a review of three months' worth of Mr. Martinez's time records, which showed that he recorded starting work at 8:30 a.m. 85 percent of the days worked in that period, despite his admission that he usually arrives at work at 9:00 or 9:30 a.m.

Mr. Martinez made additional statements that raise concerns of whether he is engaging in time abuse. Mr. Martinez expressed that it was his opinion that he was "on the clock" so long as he was available by cellular phone or e-mail. In addition, Mr. Martinez admitted that on at least one occasion he left work early to watch his children play football; in her interview, Ms. Golden denied giving him permission to do so. According to Mr. Martinez he is "relaxed on hours 'cause I'm flexible with my time," explaining that his after-hours commitments for CDB complicated his work schedule. Although Ms. Golden confirmed that being available via cell phone and email while away from work does not amount to "being on the clock" unless Mr. Martinez was at an event representing CDB, there is insufficient information to determine whether Mr. Martinez worked his full weekly hours. Mr. Martinez's failure to keep accurate time records, the lack of consistently reporting his after-hours events in Outlook or through other documentation, and the fact that he is informally permitted to adjust his schedule on days when he attends after-hours events, contribute to the difficulty of determining time abuse. However, at minimum the evidence obtained in this investigation shows that Mr. Martinez regularly failed to keep accurate timesheets and thus violated CDB policy. The allegation that Mr. Martinez failed to accurately and truthfully account for his hours worked is **FOUNDED**.²⁶

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **UNFOUNDED** – There is insufficient evidence to determine whether Jesus Martinez violated CDB policy by engaging in outside employment during work time.
- **FOUNDED** – Jesus Martinez knowingly and willfully failed to accurately and truthfully account for his hours worked, in violation of CDB policy.

The OEIG recommends that CDB discipline Mr. Martinez, and that a copy of this report be placed in his personnel file. The OEIG also recommends that CDB supervise Mr. Martinez more closely, and, at minimum, take the following actions:

- require Mr. Martinez to accurately account for his time in the future;
- explain in writing, with Mr. Martinez's acknowledgement, what type of work away from the office can be considered "work hours" for reporting purposes; and

²⁶ The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

- require Mr. Martinez to document his scheduled meetings and events outside the office in order to be able to verify his time sheets.

In addition, the OEIG recommends that CDB review with Mr. Martinez its policies regarding outside employment and ensure that Mr. Martinez limits any outside employment activities, including watching the stock market, to non-working hours.

The OEIG also recommends that CDB consider whether Mr. Martinez's activities with CIC and MTZ could be perceived as a conflict of interest under CDB policy, such that he is required to submit Applications for Approval of Outside Activities/Employment relating to that work. Finally, the OEIG recommends that going forward, the CDB Ethics Officer closely review Mr. Martinez's Statements of Economic Interests to ensure that Mr. Martinez makes any required disclosures relating to CIC, MTZ, and any other business venture with which he is associated.

No further investigation is required and this matter is considered closed.

Date: July 13, 2017

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**AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY
RESPONSE FORM**

Case Number: 16-00760

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

☐ We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

☒ We will implement some or all of the OEIG recommendations but will require additional time to do so.

We will report to OEIG within 20 days from the original return date.

☐ We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:

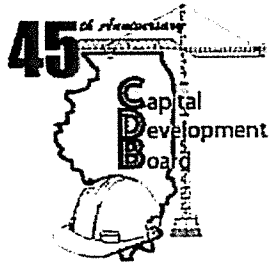
Signature

Capital Development Board Acting Executive Director
Print Agency and Job Title

Gus Behnke
Print Name

8/3/2017
Date

STATE OF ILLINOIS
BRUCE RAUNER, GOVERNOR



Gus Behnke, Acting Executive Director

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August 28, 2017

Margaret A. Hickey
Executive Inspector General
Office of the Executive Inspector General
69 West Washington Street, Suite 3400
Chicago, Illinois 60602

Re: OEIG Case Number 16-00760

Dear Executive Inspector General Hickey:

This correspondence is in response to the Final Report issued by the Office of the Inspector General in case number 16-00760, which contained a finding that Capital Development Board (CDB) Fair Employment Practices Administrator Jesus "Jesse" Martinez knowingly and willfully failed to accurately and truthfully account for his hours worked, in violation of CDB policy. In the Final Report, the OEIG made several recommendations regarding this finding, and made recommendations regarding an unfounded allegation that Mr. Martinez engaged in outside employment during work time. CDB accepts and agrees with the OEIG's recommendations. CDB has implemented the recommendations as follows:

The OEIG recommended that CDB discipline Mr. Martinez. CDB has initiated disciplinary proceedings. A pre-disciplinary hearing is scheduled for September 5, 2017. CDB will provide the OEIG with the final resolution of the disciplinary proceedings once the process is complete. In accordance with the OEIG's recommendation, a copy of the Final Report was placed in Mr. Martinez's personnel file.

In addition, the OEIG recommended that CDB supervise Mr. Martinez more closely, and take the following minimum actions: require Mr. Martinez to accurately report his time; provide a written explanation, with Mr. Martinez's acknowledgment, of what type of work away from this office is considered "work hours" for reporting purposes; and require Mr. Martinez to document scheduled meetings and events outside of the office. Mr. Martinez's supervisor has created new reporting protocols for Mr. Martinez to follow, and has


provided Mr. Martinez with guidance consistent with the OEIG's recommendations regarding time use.

Finally, the OEIG made several recommendations regarding Mr. Martinez's outside employment activities. The OEIG recommended that CDB review its policies regarding outside employment with Mr. Martinez and ensure that Mr. Martinez limits outside employment activities to non-working hours. Mr. Martinez has been provided a copy of CDB's Personnel Policies and Procedures Manual, with reference to and written explanation regarding the section of the Manual relating to outside employment. The OEIG recommended that CDB consider whether Mr. Martinez should submit formal applications for approval to engage in certain outside work activities. CDB has provided Mr. Martinez with the CDB applications and has requested Mr. Martinez return the forms within a certain time frame. The OEIG also recommended that CDB's Ethics Officer closely review Mr. Martinez's Statements of Economic Interests to ensure that he makes all required disclosures regarding his outside business ventures. CDB's Ethics Officer will work with Mr. Martinez during the next reporting period to make certain the disclosures are accurate.

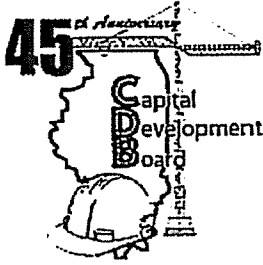
Please contact me or Amy Romano, CDB's General Counsel and Ethics Officer, if you need any further information regarding this matter.

Sincerely,

CAPITAL DEVELOPMENT BOARD


Gus Behnke
Acting Executive Director

STATE OF ILLINOIS
BRUCE RAUNER, GOVERNOR



Gus Behnke, Acting Executive Director

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Chairman

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November 28, 2017

Margaret A. Hickey
Executive Inspector General
Office of the Executive Inspector General
69 West Washington Street, Suite 3400
Chicago, Illinois 60602

Re: OEIG Case Number 16-00760

Dear Executive Inspector General Hickey:

This correspondence provides additional information in response to the Final Report issued by the Office of the Inspector General in case number 16-00760, which contained a finding that Capital Development Board (CDB) Fair Employment Practices Administrator Jesus "Jesse" Martinez knowingly and willfully failed to accurately and truthfully account for his hours worked, in violation of CDB policy.

CDB's initial response dated August 28, 2017 detailed the actions taken to date to comply with the OEIG's recommendations. The OEIG recommended CDB discipline Mr. Martinez. This recommendation remained unresolved as of CDB's prior response. Since submitting the previous response, Mr. Martinez served a 20-day suspension for the founded conduct described in the Final Report. The disciplinary process is now complete.

Please contact me or Amy Romano, CDB's General Counsel and Ethics Officer, if you need any further information regarding this matter.

Sincerely,

CAPITAL DEVELOPMENT BOARD

Gus Behnke
Acting Executive Director

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

Received
1/4/18
by: Alexa

IN RE: JESUS MARTINEZ)

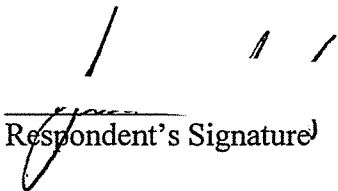
#16-00760

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked, the Commission will not make your response public if the redacted report is made public.

☒ Below is my public response. Please make this response public if the summary report is also made public; or

☐ Below are my suggestions for redaction. I do not wish for these suggestions to be made public.


Respondent's Signature

1-2-18
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

Rebuttal to Report Findings

Per our discussion, it is my strong opinion that since I did not take time from the state, the state should not take time from me. The report findings are based on my transparent and honest description of my workday activities and interpretation of a salary professional. Except for one email by a supervisor who had an issue because I was hired instead of his recommendation, my work hours have never been a problem in the 9+ years at CDB.

I initiated the outreaches at CDB because we had challenges with the number of MBE/FBE certified firms available to bidders. This important approved added component requires me to be in the field about 50% of my time. I can submit a desk full of business cards and an email list of around 200 firms interested in BEP certification, CDB prequalification and/or understanding CDB process. Please note most of the individual owners are more likely to be available before work hours or after work hours because they have businesses to run. Although, I put in for travel cost and extra time when I travel to Central or Southern Illinois I have never put in for travel or time when I travel in the Chicago land area. When I travel in the Chicago land area I continuously incur gas, meal and overtime expenses that I never submit again because I'm a salary professional.

It's important to note that I always complete a 7.5 workday and often work more hours that are not reflected on the time sheets. I was issued an I-phone from a previous Director at my request. This allows me to address any project issue regardless of time it needs to be addressed. In addition, there have been instances when I'm on vacation and I've had to address work related issues that are not reflected on timesheets. My work peers can attest that I respond to any issue in a timely and efficient manner at any time of the day or weekend.

In the future I plan to correct the time sheets to reflect the work hours, and I will request that the state reimburse my overtime and travel expense. I have and will continue to act in good faith on behalf of the state of Illinois.